

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**July 27, 1999**

**DIVISION ONE**

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Masterson, J., and S. Beaux,  
Deputy Clerk.

Each of the following:

B117525 People v. Wilson  
B119467 People v. Willis  
B120826 People v. Santellana  
B120873 Lombardo v. Gibbons  
B121064 People v. Cummings  
B121396 People v. Mationg  
B121508 People v. Sample  
B121660 People v. Hernandez  
B122576 People v. Hernandez  
B123522 People v. Rochon  
B123814 People v. Young  
B124350 People v. Fera  
B124458 People v. Huges  
B125078 People v. Jamaal D.  
B125136 People v. Silva  
B125340 People v. Gibney  
B126590 People v. Garrido  
B126627 People v. Paige  
B126767 People v. Ternus  
B126853 People v. Jimenez  
B126963 People v. Madrid  
B127201 People v. Fanning  
B127212 DCFS v. Lisa P.  
B127709 People v. Hampton  
B127764 In re Clint C., et al.  
B127847 People v. Pedro

DIVISION ONE (Continued)

Each of the following (cont.):

B128671 People v. Johnson  
B131628 Denise O. v. SCLA  
B131967 Danielle B. V. SCLA  
B132187 Plutarco U. V. SCLA

Argument waived, cause submitted.

B119987     The People  
              v.  
              Amador

Merits:

Argued by Judith Kahn for appellant and by Steven E. Mercer, deputy attorney general, for respondent

B126558     The People  
              v.  
              Juan G.

Merits:

Argued by Jerald W. Newton for appellant and by Martin L. Pitha, deputy attorney general, for respondent. Cause submitted.

B126509     Dent Wizard Int'l Corp.  
              v.  
              Brown et al.

Merits:

Argued by Elissa D. Miller for respondent and no appearance for appellant. Cause submitted.

B129487     In re Reed on Habeas Corpus

Merits:

Argued by Brent Riggs, deputy district attorney, for real party in interest and no appearance for petitioner. Cause submitted.

DIVISION ONE (Continued)

B131075     The People  
              v.  
              SCLA  
              (Fioritto, r.p.i.)

Merits:

Argued by Fred Klink, deputy district attorney, for petitioner and by Jack T. Weedon, deputy public defender, for real party in interest. Cause submitted.

B125565     The People  
              v.  
              Buetow

Merits:

Argued by Robert K. Steinberg for appellant and by William V Ballough, deputy attorney general, for respondent. Cause submitted.

B121771     The People  
              v.  
              Gutierrez

Merits:

Argued by Walter K. Pyle for appellant and by April Sylvester, deputy attorney general, for respondent. Cause submitted.

B126431     Garcia  
              v.  
              Sunrider Manufacturing

Merits:

Argued by Martin L. Abrams for appellant and by Richard J. Greene for respondents. Cause submitted.

DIVISION ONE (Continued)

B121689     The People  
              v.  
              Reyes et al.

Merits:  
Argued by Karen L. Landau for appellant Jaime Rosa and by Steven E. Mercer, deputy attorney general, for respondent. Cause submitted.

B120850     Johar  
              v.  
              Clarendon National Insurance Co., et al.

Merits:  
Argued by Edward J. Horowitz for appellant and by Neil H. Selman for respondents. Cause submitted.

B120850     Johar  
              v.  
              Clarendon National Insurance Co.

Merits:  
Argued by Edward J. Horowitz for appellant and by Neil H. Selman for respondents. Cause submitted.

B124752     The People  
              v.  
              Boykins et al.

Merits:  
Argued by James R. Bostwick Jr., for appellant Stanton, by Sheila Tuller Keiter for appellant Boykins and by John C. Yang, deputy attorney general, for respondent. Cause submitted.

DIVISION ONE (Continued)

B121131     The People  
              v.  
              Wei

Merits:

Argued by Jeffrey Brodey for appellant and by Thomas C. Hsieh, deputy attorney general, for respondent. Cause submitted.

B122440     Bagley  
              v.  
              TRW, Inc.

Merits:

Argued by Marvin E. Krakow for appellant and by Scott B. Kidman for respondent. Cause submitted.

B125825     Stoner et al.  
              v.  
              Bank of America

Merits:

Argued by Christine M. Johnson for respondents and no appearance for appellants. Cause submitted.

Ortega, J. leaves the bench.

B117713     Amitin et al.  
B122237     v.  
              Verdugo Hills Hebrew Center et al.

Merits:

Argued by Robert Deutsch for appellants and by Julie Bisceglia for respondents. Cause submitted.

Ortega, J. resumes to the bench.

DIVISION ONE (Continued)

B124010     Republic Bank et al.  
              v.  
              Fidelity National Title Insurance Co.

Merits:

Argued by Kurt L. Schmalz for appellants and by Stephen E. Anderson for appellant. Cause submitted.

B121612     Hahn et al.  
              v.  
              State Board of Equalization  
              (International Business Machines Corp., r.p.i.)

Merits:

Argued by Albert Ramseyer for appellant Hahn, by Claude Kolm for appellant Ward, by Raymond B. Jue, deputy attorney general, for respondent State Board of Equalization, by Frederick A. Richman for respondent International Business and by Albin C. Koch for amicus curiae. Cause submitted.

Court recessed.

Court reconvened at 1:15 p.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Masterson, J., and S. Beaux, Deputy Clerk.

B116457     Haile  
B120576     v.  
              Southland Corp.

Merits:

Argued by Stuart Esner for appellants, by Elise Klein for respondent Southland, by Mark A. Weinstein for respondent Tidel Engineering, by Burk M. Wiedner for respondent Key Centers Inc. and by John A. Taylor, Jr., for respondent Pico & La Brea Associates. Cause submitted.

Vogel (Miriam A), J. leaves the bench.

## DIVISION ONE (Continued)

B119288      Dawson  
v.  
Brink's Inc.

Merits:  
Argued by Mark Weidmann for appellant and by James E. Kellett for respondent. Cause submitted.

B121940      Crawford  
v.  
Wells Fargo Bank

Merits:  
Argued by Patricia Painter for respondent and by Roy G. Weatherup for appellant. Cause submitted.

Court adjourned.

B127445      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Gayle W.

The order is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

B125136 People (Not for Publication)  
v.  
Silva

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

## DIVISION ONE (Continued)

B120826 People v. Santellana (Not for Publication)

The true finding on the allegation that Santellana's 1986 federal bank robbery conviction qualifies as a strike is reversed. In all other respects, the judgment is affirmed, and the cause is remanded to the trial court with directions to reconsider Santellana's motion to strike one or both of the remaining strikes and, if made necessary by the court's ruling on that motion, to thereafter re-sentence Santellana. If the motion is again denied, the sentence originally imposed shall stand.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

[illegible]

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

B124350 People (Not for Publication)  
v.  
Feria

The judgment is affirmed, and the cause is remanded to the trial court with directions to issue a corrected abstract of judgment reflecting the \$200 restitution fine that was imposed at sentencing.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

July 27, 1999-Continued

## DIVISION ONE (Continued)

B131967      Danielle B.      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition is denied.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Masterson, J.

DIVISION TWO

B126356      Ziegler  
v.  
City of South Pasadena

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B120631      Graff-Cooper      (Not for Publication)  
v.  
Mullikin Medical Center et al.

The judgment is reversed. Respondents to bear costs of appeal.

Nott, Acting P.J.

We concur: Zebrowski, J.  
Mallano, J. (Assigned)

DIVISION TWO (Continued)

B121569      Gisela Borkton      (Not for Publication)  
                 v.  
                 Edgar Borkton

The judgment is affirmed.

Nott, J.

We concur:    Boren, P.J.  
                 Mallano, J. (Assigned)

B126553      People      (Not for Publication)  
                 v.  
                 Honore

The Court:

The judgment is modified to reflect a \$2,000 fine, rather than a \$200 fine, pursuant to Penal Code section 1202.45, said fine to be suspended unless appellant's parole is revoked. The abstract of judgment is to be amended to reflect this modification. In all other respects, the judgment is affirmed.

Boren, P.J., Nott, J., Mallano, J. (Assigned)

B114648      People      (Not for Publication)  
                 v.  
                 Beltran et al.

The Court:

The judgments are affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

July 27, 1999-Continued

## DIVISION TWO (Continued)

B124668 People v. Trevino (Not for Publication)

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### The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

## DIVISION THREE

B125188      People                                  (Not for Publication)  
v.  
Briscoe

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The judgment is modified to reflect a parole revocation fine in the amount of \$200 (Pen. Code, 1202.45) and a lab analysis fee in the amount of \$50 (Health & Saf. Code, 11372.5, subd. (a)). In all other respects, the judgment is affirmed. The Superior Court is directed to prepare an amended abstract of judgment.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

B125502      People                          (Not for Publication)  
v.  
Ira

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Kitching, J.

### DIVISION THREE (Continued)

[illegible]

The judgment is modified to reflect imposition of a restitution fine in the amount of \$2,000 payable at the rate of \$200 per year from Waters' prison earnings, and a term of life with the possibility of parole for attempted murder plus a consecutive determinate term of 13 years in state prison. As so modified, the judgment is affirmed. The Superior Court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B127652 People (Not for Publication)  
v.  
Jarvis T.

The judgment (order declaring minor a ward of the court under Welfare and Institutions Code section 602) is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                          Kitching, J.

B123583 People (Not for Publication)  
v.  
Rodriguez

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Kitching, J.

DIVISION THREE (Continued)

B116964      Homes Savings of America, FSB      (Not for Publication)  
v.  
Steven Markoff

The judgment is reversed. The matter is remanded to the trial court for a retrial only on the issue of the amount of the lien. The parties are to bear their own costs on appeal.

Aldrich, J.

We concur: Klein, P.J.  
Croskey, J.

B132013      Loruhamma M.      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition for writ is denied.

Klein, P.J.

We concur: Kitching, J.  
Aldrich, J.

B127356      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Carry K.  
In re Carry K.

The juvenile court order extending jurisdiction and providing emancipation services is affirmed.

Kitching, J.

We concur: Klein, P.J.  
Croskey, J.

### DIVISION THREE (Continued)

B122854 Mark Campbell et al. (Not for Publication)  
v.  
City of Inglewood et al.

The judgment is affirmed. Costs on appeal to defendants Eccles, Thompson, and City of Inglewood.

Kitching, J.

We concur: Klein, P.J.  
Aldrich, J.

DIVISION FIVE

B119842 Inter-Modal Rail Employees Association et al. (Certified for Partial Publication)  
v.  
The Burlington Northern and Santa Fe Railway Company

The judgment is reversed and the matter is remanded. The trial court is directed to enter a new and different order dismissing only IMREA's fourth cause of action against BNSF for violation of Business and Professions Code sections 17000 and 17200. The trial court is further directed to reconsider its denial of leave to file a third amended complaint in light of our findings that the National Labor Relations Act does not preempt IMREA's wrongful termination claims and that IMREA states a cause of action against BNSF for conspiracy for wrongful termination. IMREA to recover its costs on appeal.

Godoy Perez, J.

We concur:   Turner, P.J.  
                      Grignon, J.

## DIVISION FIVE (Continued)

B123798      People                                  (Not for Publication)  
v.  
Darrell Houston

The judgment is modified to impose a \$50 penalty assessment on the laboratory analysis fee pursuant to Penal Code section 1464, and to impose a \$35 penalty assessment on the laboratory analysis fee pursuant to Government Code section 76000. As modified, the judgment is affirmed.

Weisman, J. (Assigned)

We concur:   Turner, P.J.  
                      Grignon, J.

B123999 People (Not for Publication)  
B131736 v.  
Timothy Bloom

The judgment is modified to impose a \$50 penalty assessment on the laboratory analysis fee pursuant to Penal Code section 1464, and to impose a \$35 penalty assessment on the laboratory analysis fee pursuant to Government Code section 76000. The clerk of the superior court is further directed to correct the abstract judgment to reflect the \$50 laboratory analysis fee imposed by the court pursuant to Health and Safety Code section 11372.5. In all other respects, the judgment is affirmed. The petition for writ of habeas corpus is denied.

Weisman, J. (Assigned)

We concur:   Turner, P.J.  
                      Grignon, J.

## DIVISION FIVE (Continued)

B121468      People                                  (Not for Publication)  
v.  
Sven Tyree Johnson

The judgment is affirmed.

Weisman, J. (Assigned)

We concur:   Turner, P.J.  
                      Grignon, J.

B123672      People      (Not for Publication)  
v.  
Raul Orlando Calix

The clerk of the superior court is ordered to modify the abstract of judgment to reflect that restitution ordered paid directly to the victims in counts 14, 15 and 16 by defendant is to be joint and several as to any restitution ordered paid directly to the victims in those counts by codefendant Debra Nashhay and George Dennisaro. A copy of the corrected abstract shall then be forwarded by the clerk to the Department of Corrections. In all other respects, the judgment is affirmed.

Weisman, J. (Assigned)

We concur:   Turner, P.J.  
                      Grignon, J.

B124644 People (Not for Publication)  
v.  
Joe Romero

The judgment is affirmed.

Weisman, J. (Assigned)

We concur:   Turner, P.J.  
                      Grignon, J.

July 27, 1999-Continued

DIVISION SIX

[illegible]

The judgment is affirmed.

Gilbert, Acting P.J.

We concur: Yegan, J.  
Matz, J. (Assigned)

[illegible]

The judgment is affirmed.

Gilbert, Acting P.J.

We concur: Yegan, J.  
Matz, J. (Assigned)

B122654 People (Not for Publication)  
v.  
Moreno

The judgment is modified to show a \$200 parole revocation fine. (§ 1202.45.) As so modified, the judgment is affirmed.

Yegan, J.

We concur:    Gilbert, Acting P.J.  
                     Coffee, J.